No. 23-16091

IN THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

HOWARD JARVIS TAXPAYERS ASSOCIATION, et al.,

Plaintiffs-Appellants,

v.

CITY OF SAN JOSE,

Defendant-Appellee.

On Appeal from the United States District Court for the Northern District of California Consolidated Case Nos. 5:22-cv-00501-BLF and 5:22-cv-02365-BLF Hon. Beth Labson Freeman

APPELLANTS' EXCERPTS OF RECORD INDEX VOLUME

Jonathan M. Coupal, SBN 107815 Timothy A. Bittle, SBN 112300 Laura E. Dougherty, SBN 255855 Howard Jarvis Taxpayers Foundation 1201 K Street, Ste. 1030 Sacramento, CA 95814 Telephone: (916) 444-9950

Attorneys for Appellants

Document	File Date	USDC Dkt. No.	ER No.			
Volume 1 of 4						
Order Dismissing Case	07/28/2023	109	3-4			
Order Granting Defendants' Motion to	07/13/2023	107	5-27			
Dismiss With Leave to Amend in Part and						
Without Leave to Amend in Part						
Volume 2 of 4						
Notice of Appeal	08/29/2023	113	31-32			
Amended Notice of Appeal	08/21/2023	112	33-36			
Notice of Appeal	08/11/2023	110	37-40			
Plaintiffs' Notice of Intent not to Amend	07/27/2023	108	41-43			
Complaint						
Defendants' Reply in Support of Motion to	03/30/2023	104	44-62			
Dismiss Plaintiffs' Consolidated Second Am						
HJTA's Opposition to City's Motion to	03/16/2023	102	63-82			
Dismiss Plaintiff's Complaint						
Defendant's Motion to Dismiss Plaintiffs'	02/16/2023	95	83-114			
Consolidated Second Amended Complaint						
Under Federal Rules 12(b)(1) and 12(b)(6)						
Declaration of Tamarah P. Prevost in	02/16/2023	95-1	115-117			
Support of Defendants' Motion to Dismiss						
Plaintiffs' Consolidated Second Amended						
Complaint						
Consolidated Second Amended Complaint	02/02/2023	94	118-142			
for Injunctive Relief, Declaratory Judgment,						
Invalidation of §§ 10.32.215 and						
10.32.230(B) of Chapter 10.32 of Title 10 of						
the San Jose Municipal Code, and Nominal						
Damages						
Exhibit A	02/02/2023	94-1	143-145			
Exhibit B	02/02/2023	94-2	146-150			
Exhibit C	02/02/2023	94-3	151-155			
Exhibit D	02/02/2023	94-4	156-161			
Exhibit E	02/02/2023	94-5	162-176			
Exhibit F	02/02/2023	94-6	177-181			
Exhibit G	02/02/2023	94-7	182-184			
Exhibit H	02/02/2023	94-8	185-191			

Defendants' Status Report on Implementation of the Gun Harm Reduction Ordinance	Exhibit I	01/06/2023	94-9	192
Implementation of the Gun Harm Reduction Ordinance 08/16/2022 76 199-265 Transcript of Proceedings Before the Honorable Beth Labson Freeman United States District Judge 04/22/2022 02365 266-296 Defendant City of San Jose's Notice of Motion and Motion to Dismiss Plaintiffs' Complaint Under Rules 12(b)(1) and 12(b)(6); Memorandum of Points and Authorities 04/22/2022 02365 No. 9-2 300-308 No. 9-2 Exhibit 1 04/22/2022 02365 No. 9-2 309-312 No. 9-3 Exhibit 2 04/22/2022 02365 No. 9-3 315-324 No. 9-4 Exhibit 3 04/22/2022 02365 No. 9-3 315-324 No. 9-4 Exhibit 4 04/22/2022 02365 No. 9-5 325-330 No. 9-5 Exhibit 5 04/22/2022 02365 No. 9-5 331-333 No. 9-6 Exhibit 6 04/22/2022 02365 No. 9-7 334-337 No. 9-7 Exhibit 7 04/22/2022 02365 No. 9-9 338-469 No. 9-9 Exhibit 8 04/22/2022 02365 No. 9-10 470-475 No. 9-10 Exhibit 9 04/22/2022 02365 No. 9-10 503-510 No. 9-11 Exhibit 11 04/22/2022 02365 No. 9-11 503-510 No. 9-12	Defendants' Status Report on	01/06/2023	85	193-198
Transcript of Proceedings Before the Honorable Beth Labson Freeman United States District Judge Defendant City of San Jose's Notice of Motion and Motion to Dismiss Plaintiffs' Complaint Under Rules 12(b)(1) and 12(b)(6); Memorandum of Points and Authorities Exhibit 1	_			
Honorable Beth Labson Freeman United States District Judge Defendant City of San Jose's Notice of Motion and Motion to Dismiss Plaintiffs' Complaint Under Rules 12(b)(1) and 12(b)(6); Memorandum of Points and Authorities Exhibit 1				
States District Judge	Transcript of Proceedings Before the	08/16/2022	76	199-265
Defendant City of San Jose's Notice of Motion and Motion to Dismiss Plaintiffs' Complaint Under Rules 12(b)(1) and 12(b)(6); Memorandum of Points and Authorities D4/22/2022 D2365 No. 9-2 Exhibit 1 D4/22/2022 D2365 No. 9-3 No. 9-3	Honorable Beth Labson Freeman United			
Motion and Motion to Dismiss Plaintiffs' Complaint Under Rules 12(b)(1) and 12(b)(6); Memorandum of Points and Authorities No. 9 No. 9 No. 9 No. 90-2 No. 90-2 No. 90-2 No. 90-308 No. 90-3 No. 90-3 No. 90-3 No. 90-312 No. 90-3 No. 90-3	States District Judge			
Complaint Under Rules 12(b)(1) and 12(b)(6); Memorandum of Points and Authorities 04/22/2022 02365 No. 9-2 300-308 No. 9-2 Exhibit 1 04/22/2022 02365 No. 9-2 309-312 No. 9-3 Volume 3 of 4 Exhibit 3 04/22/2022 02365 No. 9-4 315-324 No. 9-4 Exhibit 4 04/22/2022 02365 No. 9-5 325-330 No. 9-5 Exhibit 5 04/22/2022 02365 No. 9-6 331-333 No. 9-6 Exhibit 6 04/22/2022 02365 No. 9-7 334-337 No. 9-6 Exhibit 7 04/22/2022 02365 No. 9-8 338-469 No. 9-8 Exhibit 8 04/22/2022 02365 No. 9-9 470-475 No. 9-10 Exhibit 9 04/22/2022 02365 No. 9-10 503-510 No. 9-11 Exhibit 10 04/22/2022 02365 No. 9-11 503-510 No. 9-11 Exhibit 11 04/22/2022 02365 No. 9-11 503-510 No. 9-12 Exhibit 12 04/22/2022 02365 No. 9-13 502-540 No. 9-13 Exhibit 13 04/22/2022 02365 S41-555	Defendant City of San Jose's Notice of	04/22/2022	02365	266-296
12(b)(6); Memorandum of Points and Authorities Exhibit 1 04/22/2022 02365 No. 9-2 300-308 No. 9-2 Exhibit 2 04/22/2022 02365 No. 9-3 309-312 No. 9-3 Volume 3 of 4 Exhibit 3 04/22/2022 02365 No. 9-4 315-324 No. 9-4 Exhibit 4 04/22/2022 02365 No. 9-5 325-330 No. 9-5 Exhibit 5 04/22/2022 02365 No. 9-6 331-333 No. 9-6 Exhibit 6 04/22/2022 02365 No. 9-7 334-337 No. 9-6 Exhibit 7 04/22/2022 02365 No. 9-8 338-469 No. 9-8 Exhibit 8 04/22/2022 02365 No. 9-9 470-475 No. 9-9 Exhibit 9 04/22/2022 02365 No. 9-10 503-510 No. 9-11 Exhibit 10 04/22/2022 02365 No. 9-11 503-510 No. 9-11 Exhibit 11 04/22/2022 02365 No. 9-12 511-521 No. 9-13 Exhibit 12 04/22/2022 02365 No. 9-13 522-540 No. 9-13 Exhibit 13 04/22/2022 02365 S41-555	Motion and Motion to Dismiss Plaintiffs'		No. 9	
Authorities 04/22/2022 02365 No. 9-2 300-308 No. 9-2 Exhibit 2 04/22/2022 02365 No. 9-2 309-312 No. 9-3 Volume 3 of 4 Exhibit 3 04/22/2022 02365 No. 9-4 315-324 No. 9-4 Exhibit 4 04/22/2022 02365 No. 9-5 325-330 No. 9-5 Exhibit 5 04/22/2022 02365 No. 9-5 331-333 No. 9-6 Exhibit 6 04/22/2022 02365 No. 9-7 338-469 No. 9-7 Exhibit 7 04/22/2022 02365 No. 9-8 470-475 No. 9-8 Exhibit 8 04/22/2022 02365 No. 9-9 476-502 No. 9-10 Exhibit 9 04/22/2022 02365 No. 9-10 503-510 No. 9-11 Exhibit 10 04/22/2022 02365 No. 9-12 511-521 No. 9-12 Exhibit 11 04/22/2022 02365 No. 9-13 522-540 No. 9-13 Exhibit 13 04/22/2022 02365 S41-555	Complaint Under Rules 12(b)(1) and			
Exhibit 1 04/22/2022 02365 No. 9-2 300-308 No. 9-2 Exhibit 2 04/22/2022 02365 No. 9-3 309-312 No. 9-3 Volume 3 of 4 Exhibit 3 04/22/2022 02365 No. 9-4 315-324 No. 9-4 Exhibit 4 04/22/2022 02365 No. 9-5 325-330 No. 9-5 Exhibit 5 04/22/2022 02365 No. 9-6 331-333 No. 9-6 Exhibit 6 04/22/2022 02365 No. 9-7 334-337 No. 9-7 Exhibit 7 04/22/2022 02365 No. 9-8 338-469 No. 9-8 Exhibit 8 04/22/2022 02365 No. 9-9 470-475 No. 9-9 Exhibit 9 04/22/2022 02365 No. 9-10 503-510 No. 9-11 Exhibit 10 04/22/2022 02365 No. 9-12 503-510 No. 9-12 Exhibit 11 04/22/2022 02365 No. 9-12 511-521 No. 9-13 Exhibit 12 04/22/2022 02365 No. 9-13 522-540 No. 9-13 Exhibit 13 04/22/2022 02365 S41-555	12(b)(6); Memorandum of Points and			
Exhibit 2 04/22/2022 02365 No. 9-3 Volume 3 of 4 Exhibit 3 04/22/2022 02365 No. 9-4 Exhibit 4 04/22/2022 02365 No. 9-5 Exhibit 5 04/22/2022 02365 No. 9-6 Exhibit 6 04/22/2022 02365 No. 9-7 Exhibit 7 04/22/2022 02365 No. 9-7 Exhibit 8 04/22/2022 02365 No. 9-8 Exhibit 9 04/22/2022 02365 No. 9-9 Exhibit 10 04/22/2022 02365 No. 9-10 Exhibit 11 04/22/2022 02365 No. 9-10 Exhibit 11 04/22/2022 02365 No. 9-11 Exhibit 12 04/22/2022 02365 No. 9-12 Exhibit 12 04/22/2022 02365 No. 9-13 Exhibit 12 04/22/2022 02365 No. 9-13 Exhibit 13	Authorities			
Exhibit 2 04/22/2022 02365 No. 9-3 309-312 Volume 3 of 4 Exhibit 3 04/22/2022 02365 No. 9-4 315-324 No. 9-4 Exhibit 4 04/22/2022 02365 No. 9-5 331-333 No. 9-6 Exhibit 5 04/22/2022 02365 No. 9-7 334-337 No. 9-7 Exhibit 7 04/22/2022 02365 No. 9-8 470-475 No. 9-9 Exhibit 8 04/22/2022 02365 No. 9-10 476-502 No. 9-10 Exhibit 10 04/22/2022 02365 No. 9-11 503-510 No. 9-12 Exhibit 11 04/22/2022 02365 No. 9-12 51-521 No. 9-13 Exhibit 13 04/22/2022 02365 No. 9-13 522-540 No. 9-13	Exhibit 1	04/22/2022	02365	300-308
No. 9-3			No. 9-2	
Volume 3 of 4 Exhibit 3 04/22/2022 02365 No. 9-4 315-324 No. 9-4 Exhibit 4 04/22/2022 02365 No. 9-5 325-330 No. 9-5 Exhibit 5 04/22/2022 02365 No. 9-6 331-333 No. 9-6 Exhibit 6 04/22/2022 02365 No. 9-7 334-337 No. 9-7 Exhibit 7 04/22/2022 02365 No. 9-8 338-469 No. 9-8 Exhibit 8 04/22/2022 02365 No. 9-9 470-475 No. 9-9 Exhibit 9 04/22/2022 02365 No. 9-10 476-502 No. 9-10 Exhibit 10 04/22/2022 02365 No. 9-11 503-510 No. 9-11 Exhibit 11 04/22/2022 02365 No. 9-12 511-521 No. 9-12 Exhibit 12 04/22/2022 02365 No. 9-13 522-540 No. 9-13 Exhibit 13 04/22/2022 02365 541-555	Exhibit 2	04/22/2022	02365	309-312
Exhibit 3 04/22/2022 02365 No. 9-4 Exhibit 4 04/22/2022 02365 No. 9-5 Exhibit 5 04/22/2022 02365 No. 9-6 Exhibit 6 04/22/2022 02365 No. 9-6 Exhibit 7 04/22/2022 02365 No. 9-7 Exhibit 8 04/22/2022 02365 No. 9-8 Exhibit 8 04/22/2022 02365 No. 9-8 Exhibit 9 04/22/2022 02365 No. 9-9 Exhibit 9 04/22/2022 02365 No. 9-9 Exhibit 10 04/22/2022 02365 No. 9-10 Exhibit 10 04/22/2022 02365 No. 9-10 Exhibit 11 04/22/2022 02365 No. 9-11 Exhibit 12 04/22/2022 02365 No. 9-12 Exhibit 13			No. 9-3	
No. 9-4	Volume 3 of	f 4		
No. 9-4	Exhibit 3	04/22/2022	02365	315-324
Exhibit 4 04/22/2022 02365 No. 9-5 325-330 No. 9-5 Exhibit 5 04/22/2022 02365 No. 9-6 331-333 No. 9-6 Exhibit 6 04/22/2022 02365 No. 9-7 334-337 No. 9-7 Exhibit 7 04/22/2022 02365 No. 9-8 338-469 No. 9-8 Exhibit 8 04/22/2022 02365 No. 9-9 470-475 No. 9-9 Exhibit 9 04/22/2022 02365 No. 9-10 503-510 No. 9-11 Exhibit 10 04/22/2022 02365 No. 9-11 511-521 No. 9-12 Exhibit 11 04/22/2022 02365 S22-540 No. 9-13 522-540 No. 9-13 Exhibit 13 04/22/2022 02365 S41-555		0 = 2. = 0= =		010 02.
Exhibit 5 Exhibit 5 04/22/2022 02365 No. 9-6 Exhibit 6 04/22/2022 02365 No. 9-7 Exhibit 7 04/22/2022 02365 No. 9-8 Exhibit 8 04/22/2022 02365 No. 9-8 Exhibit 9 04/22/2022 02365 No. 9-9 Exhibit 10 04/22/2022 02365 No. 9-10 Exhibit 11 04/22/2022 02365 No. 9-11 Exhibit 11 04/22/2022 02365 No. 9-11 Exhibit 11 04/22/2022 02365 No. 9-12 Exhibit 12 04/22/2022 02365 No. 9-12 Exhibit 13	Exhibit 4	04/22/2022		325-330
Exhibit 5 04/22/2022 02365 No. 9-6 331-333 No. 9-6 Exhibit 6 04/22/2022 02365 No. 9-7 334-337 No. 9-7 Exhibit 7 04/22/2022 02365 No. 9-8 338-469 No. 9-8 Exhibit 8 04/22/2022 02365 No. 9-9 470-475 No. 9-9 Exhibit 9 04/22/2022 02365 No. 9-10 503-510 No. 9-11 Exhibit 10 04/22/2022 02365 No. 9-11 503-510 No. 9-12 Exhibit 11 04/22/2022 02365 No. 9-12 511-521 No. 9-12 Exhibit 12 04/22/2022 02365 No. 9-13 522-540 No. 9-13 Exhibit 13 04/22/2022 02365 541-555				
Exhibit 6 No. 9-6 No. 9-6 Exhibit 7 04/22/2022 02365 No. 9-8 334-337 338-469 Exhibit 8 04/22/2022 02365 No. 9-8 470-475 No. 9-9 Exhibit 9 04/22/2022 02365 No. 9-10 476-502 No. 9-10 Exhibit 10 04/22/2022 02365 No. 9-11 503-510 No. 9-11 Exhibit 11 04/22/2022 02365 No. 9-12 511-521 No. 9-12 Exhibit 12 04/22/2022 02365 No. 9-13 522-540 No. 9-13 Exhibit 13 04/22/2022 02365 02365 541-555	Exhibit 5	04/22/2022		331-333
Exhibit 7 Exhibit 8 O4/22/2022 O2365 No. 9-8 Exhibit 8 O4/22/2022 O2365 No. 9-9 Exhibit 9 O4/22/2022 O2365 No. 9-9 Exhibit 10 O4/22/2022 O2365 No. 9-10 Exhibit 11 O4/22/2022 O2365 No. 9-11 Exhibit 11 O4/22/2022 O2365 No. 9-12 Exhibit 12 O4/22/2022 O2365 No. 9-12 Exhibit 13 O4/22/2022 O2365 O4/22/2022			No. 9-6	
Exhibit 7 Exhibit 8 O4/22/2022 O2365 No. 9-8 Exhibit 8 O4/22/2022 O2365 No. 9-9 Exhibit 9 O4/22/2022 O2365 No. 9-9 Exhibit 10 O4/22/2022 O2365 No. 9-10 Exhibit 11 O4/22/2022 O2365 No. 9-11 Exhibit 11 O4/22/2022 O2365 No. 9-12 Exhibit 12 O4/22/2022 O2365 No. 9-12 Exhibit 13 O4/22/2022 O2365 O4/22/2022	Exhibit 6	04/22/2022		334-337
Exhibit 8 04/22/2022 02365 No. 9-9 Exhibit 9 04/22/2022 02365 No. 9-10 Exhibit 10 04/22/2022 02365 No. 9-11 Exhibit 11 04/22/2022 02365 No. 9-11 Exhibit 11 04/22/2022 02365 No. 9-12 Exhibit 12 04/22/2022 02365 No. 9-13 Exhibit 13 04/22/2022 02365 S22-540 No. 9-13			No. 9-7	
Exhibit 8 04/22/2022 02365 No. 9-9 470-475 No. 9-9 Exhibit 9 04/22/2022 02365 No. 9-10 476-502 No. 9-10 Exhibit 10 04/22/2022 02365 No. 9-11 503-510 No. 9-11 Exhibit 11 04/22/2022 02365 No. 9-12 511-521 No. 9-12 Exhibit 12 04/22/2022 02365 No. 9-13 522-540 No. 9-13 Exhibit 13 04/22/2022 02365 541-555	Exhibit 7	04/22/2022	02365	338-469
Exhibit 8 04/22/2022 02365 No. 9-9 470-475 No. 9-9 Exhibit 9 04/22/2022 02365 No. 9-10 476-502 No. 9-10 Exhibit 10 04/22/2022 02365 No. 9-11 503-510 No. 9-11 Exhibit 11 04/22/2022 02365 No. 9-12 511-521 No. 9-12 Exhibit 12 04/22/2022 02365 No. 9-13 522-540 No. 9-13 Exhibit 13 04/22/2022 02365 541-555				
Exhibit 9 Exhibit 10 Exhibit 11 O4/22/2022 O2365 No. 9-10 O4/22/2022 O2365 No. 9-11 Exhibit 11 O4/22/2022 O2365 No. 9-11 Exhibit 12 O4/22/2022 O2365 No. 9-12 Exhibit 12 O4/22/2022 O2365 No. 9-13 Exhibit 13	Exhibit 8	04/22/2022		470-475
Exhibit 9 04/22/2022 02365 No. 9-10 476-502 No. 9-10 Exhibit 10 04/22/2022 02365 No. 9-11 503-510 No. 9-11 Exhibit 11 04/22/2022 02365 No. 9-12 511-521 No. 9-12 Exhibit 12 04/22/2022 02365 No. 9-13 522-540 No. 9-13 Exhibit 13 04/22/2022 02365 541-555			No. 9-9	
Exhibit 10 04/22/2022 02365 No. 9-11 503-510 Exhibit 11 04/22/2022 02365 No. 9-12 511-521 No. 9-12 Exhibit 12 04/22/2022 02365 No. 9-13 522-540 No. 9-13 Exhibit 13 04/22/2022 02365 541-555	Exhibit 9	04/22/2022		476-502
Exhibit 11 04/22/2022 02365 511-521 No. 9-12 Exhibit 12 04/22/2022 02365 522-540 No. 9-13 Exhibit 13 04/22/2022 02365 541-555			No. 9-10	
Exhibit 11 04/22/2022 02365 511-521 No. 9-12 Exhibit 12 04/22/2022 02365 522-540 No. 9-13 Exhibit 13 04/22/2022 02365 541-555	Exhibit 10	04/22/2022	02365	503-510
Exhibit 11 04/22/2022 02365 No. 9-12 511-521 No. 9-12 Exhibit 12 04/22/2022 02365 No. 9-13 522-540 No. 9-13 Exhibit 13 04/22/2022 02365 541-555				
Exhibit 12 04/22/2022 02365 522-540 No. 9-13 Exhibit 13 04/22/2022 02365 541-555	Exhibit 11	04/22/2022		511-521
Exhibit 12 04/22/2022 02365 No. 9-13 522-540 Exhibit 13 04/22/2022 02365 541-555				
Exhibit 13 No. 9-13 04/22/2022 02365 541-555	Exhibit 12	04/22/2022		522-540
Exhibit 13 04/22/2022 02365 541-555				-
	Exhibit 13	04/22/2022		541-555
			No. 9-14	

Declaration of Sarah Zarate in Support of	04/22/2022	02365	556-558	
Defendant City of San Jose's Motion to		No. 9-15		
Dismiss Plaintiffs' Complaint				
Exhibit 1	04/22/2022	02365	559-578	
		No. 9-16		
Volume 4 of 4				
Transcript of Proceedings Before the	09/07/2022	02365	581-613	
Honorable Beth Labson Freeman United		No. 28		
States District Judge				
Defendants' Corrected Status Report on	08/17/2022	02365	614-620	
Implementation of the Gun Harm Reduction		No. 25		
Ordinance				
Docket Report 5:22-cv-00501-BLF			621-638	
Docket Report 5:22-cv-02365-BLF			639-645	